

Congress of the United States
Washington, DC 20515

August 3, 2017

The Honorable James Mattis
Secretary of Defense
1100 Defense Pentagon
Washington, DC 20301-1000

Dear Secretary Mattis:

As Chairmen and Ranking Members of the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Financial Services, with oversight jurisdiction over the Defense Production Act (DPA), we write to express our serious concerns about the near and long-term viability of the DPA Title III program in light of a July 1, 2017, Deputy Secretary of Defense memorandum (attached) directing that the Air Force no longer serve as DOD Executive Agent for the Title III program. In our judgment, this decision to rescind the Air Force's executive agent role could pose real risks to ongoing and future Title III projects vital to ensuring that the domestic defense industrial base meets national defense and homeland security needs deemed essential by the President. In a worst-case scenario, we are concerned that the future of the Title III program could be put at risk by such a major change in program management.

Enacted in 1950, the Defense Production Act (50 U.S.C. App. § 2061 et seq.) provides robust legal authority for the President to ensure the timely availability of essential domestic industrial resources to support national defense and homeland security requirements. When domestic industrial capabilities that impact essential national defense and homeland security do not exist, are at risk of being lost, or are insufficient to meet national defense needs, and the private sector is unable or unwilling to create or expand the needed production capacity/capability, then DPA Title III authorities may be employed to address the shortfall. Title III actions stimulate private investment in domestic production by reducing risks associated with capitalization and investments required to establish needed production capacity. These projects range from providing for process improvement, to purchase guarantees or other measures necessary to improve U.S. production capabilities to support national defense.

The President's DPA Title III authorities are delegated to the heads of Federal departments and agencies in Executive Order 13603. These authorities have, in turn, been delegated within the Department of Defense under DoD Directive 4400.1E, dated October 1, 2001. Under this directive the Air Force, through the Air Force Research Laboratory Materials and Manufacturing Directorate, has managed a range of Title III project development and execution activities including financial management, project structuring to achieve project goals; acquisition contracting; technical and business performance monitoring of Title III contractors; contract administration, and disposition of government-owned equipment, products, and materials. The Air Force has successfully fulfilled this role for three decades, and managed the program through a significant period of growth.

Title III is unique in that it is the sole DOD program focused on creating, maintaining, protecting, expanding, or restoring domestic production capacity to strengthen domestic industry and to establish the industrial base capacity for essential national defense capabilities. This unique set of program capacities is located nowhere else in the federal government and took years to develop and refine, capacities that will not exist in the various services when the July 1 order becomes effective. This could prevent project overseers' ability to identify projects, develop business plans, and in many cases secure

the personal approval of the President before any funding is obligated. Executing this unique authority requires specialized personnel with expertise in financial management, acquisition contracting, technical and business performance monitoring, materials and manufacturing process management, and contract administration that few DOD entities possess. We are concerned that the July 1st decision to rescind the Air Force as the DPA Title III Executive Agent poses a significant risk to the execution of the more than 30 active Title III projects, and has the potential for disorganized and haphazard development and execution of future Title III projects, including those currently in the pipeline.

Removing the Air Force as Executive Agent also poses challenges for Title III efforts involving other Federal departments/agencies. Those projects are critical to the protection of the homeland and ensuring that our intelligence agencies have a robust industrial base to provide technologies essential to carry out their missions. The monitoring of disparate disbursement and execution of Title III activities across the Federal government will require establishment and expenditure of significant oversight resources to ensure accurate information regarding project development and funds execution are properly captured and reported to Defense authorities and Congressional committees. To our knowledge, that oversight structure does not exist outside the Air Force. The Air Force DPA Executive Agent serves to focus DoD resources on a specific area of responsibility, thereby minimizing duplication, confusion, and wasted resources.

Over the past 30 years the Air Force has had a successful track record of mitigating difficult industrial base shortfalls through Title III on behalf of various Federal agencies. We are concerned that the removal of the Air Force as the Title III Executive Agent jeopardizes execution of essential domestic industrial resources to support national defense and homeland security requirements. We are also troubled that the memo effecting this change was issued without any notice, explanation, or consultation with our committees with jurisdiction over Title III. For these reasons, we urge you immediately to reinstate the Air Force as the DPA Title III Executive Agent. We intend to conduct a review of these and other program changes in the context of the upcoming DPA Title III reauthorization process.

Thank you for your consideration. We look forward to hearing your response to our request.

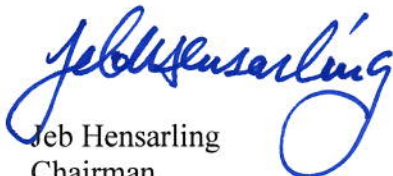
Sincerely,



Mike Crapo
Chairman
Committee on Banking, Housing,
and Urban Affairs



Sherrod Brown
Ranking Member
Committee on Banking, Housing,
and Urban Affairs



Jeb Hensarling
Chairman
Committee on Financial Services



Maxine Waters
Ranking Member
Committee on Financial Services



**DEPUTY SECRETARY OF DEFENSE
1010 DEFENSE PENTAGON
WASHINGTON, DC 20301-1010**

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MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN OF THE JOINT CHIEFS OF STAFF
UNDER SECRETARIES OF DEFENSE
DEPUTY CHIEF MANAGEMENT OFFICER
GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE
DIRECTOR OF COST ASSESSMENT AND PROGRAM
EVALUATION
INSPECTOR GENERAL OF THE DEPARTMENT OF DEFENSE
DIRECTOR OF OPERATIONAL TEST AND EVALUATION
CHIEF INFORMATION OFFICER OF THE DEPARTMENT OF
DEFENSE
ASSISTANT SECRETARY OF DEFENSE FOR LEGISLATIVE
AFFAIRS
ASSISTANT TO THE SECRETARY OF DEFENSE FOR PUBLIC
AFFAIRS
DIRECTOR OF NET ASSESSMENT
DIRECTORS OF DEFENSE AGENCIES
DIRECTORS OF DOD FIELD ACTIVITIES

SUBJECT: Cancellation of the Department of Defense Executive Agent for the Defense
Production Act Title III Program

To better align the Defense Production Act (DPA) Title III project execution with Department of Defense (DoD) Component program requirements, the current designation of the Secretary of the Air Force as the DoD Executive Agent for the DPA Title III program in DoD Directive (DoDD) 4400.1 E, "Defense Production Act Programs," dated October 12, 2001, is cancelled effective October 1, 2017. All other elements of DoDD 4400.1 E will remain in effect.

The Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics (OUSD(AT&L)) is directing the Deputy Assistant Secretary of Defense for Manufacturing and Industrial Base Policy to oversee this program and all related management activities. OUSD(AT&L) will develop and coordinate a revised DoDD 4400.1E by the end of Calendar Year 2018 to accurately reflect the changes to program management.



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